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SUPREME COURT OF THE UNITED STATES.

DECEMBER TERM, 1849.—No. 100.

POLLARD'S HEIRS ET AL.

vs.

KIBBE.

Translation from the Spanish, at page 15, printed record.

Don Juan Ventura Morales, accountant general and intendante *ad interim* of the royal treasury of these province of Louisiana and West Florida, superintendent, sub-delegate, judge of marine arrivals, of lands and royal lots.

Forasmuch as Messrs. Panton, Leslie & Co., by Mr. Wm. Simpson, their agent and attorney in fact in Mobile, have presented themselves in court, praying that there be granted to them a lot of ground in that place, with a front of eighty feet, and **eight* of depth, under the obligation of raising and levelling it, as also the road which leads to the mole, in consequence of both of them being muddy and marshy, besides being subject to overflow, from which an injury results to the public; having regard to the utility which will be experienced from the work which is offered to be done according to the proposition as reported by the commandant and sub-delegate of the royal treasury of the same place, Don Joaquin De Osorno, †that the petition having been submitted to the fiscal, (king's attorney,) he consented to it on the supposition of a fulfilment of what is offered; that by an act of the 1st of February of the present year, I grant to the house of the said Panton, Leslie & Co., the lot of ground petitioned for in their name, under the proposed conditions; provided that the said señor sub-delegate should report the time which would be sufficient to fulfil the said conditions, remitting a plan of the survey of the said land, that, with due regard to all the title, might be despatched: That, having directed this plan of the contents of the survey made by the surveyor, Mr. Joseph Collins, with which the señor sub-delegate accompanied his report, I ordered the whole to be annexed to the expe-

*It would appear by the subsequent part of this paper, that the words "*doscientos ochenta*," are accidentally omitted here. They would make the depth "two hundred and eighty-eight."—*Translator.*

† This would appear to be a recital of the sub-delegate's report.—*Translator.*

diente; and, by assessorial* act of the second instant, I commanded the title to be despatched, with the proviso which will be mentioned. Therefore, making use of the power committed to this intendency, in the name of the King, our lord, (God preserve him,) I grant to the house of the said Messrs. Panton, Leslie & Co., the lot of ground which it has petitioned for, in the Place of Mobile, in the spot contained in the figurative plan which has been referred to, under the dimensions, figures, and distances which it comprehends, containing eighty feet front on Royal street, (*Calle Real*,) and two hundred and eighty-eight in depth, to the river of said Mobile; bounded on its sides by Government street (Calle del Gobierno) and the land of the said house and company. In virtue whereof, I declare to it (the said house and company) the sole and direct dominion of the said lot of ground, in order that, as their property, they may defend it, use it, or alien it at their pleasure; giving them power to take possession of it, or claim it, if it should be impeded; in which (*possession*) I put and sustain them without prejudice to the right of any third person who may have better right: with the proviso, condition, and circumstance, of raising, filling or levelling it, as also of repairing the road which leads to the mole as has been offered, in order to prevent the injuries heretofore experienced, and that the public may be benefited by its results. Without which works, which will be done within four months, counting from the second instant, this grant† shall be null. In the mean time I command these presents to be delivered, signed by my hand, sealed with the seal of my arms, and countersigned by the undersigned notary of the royal treasury, who, as also the principal office of accounts, will register this title as is directed in the instructions.

Given in the city of New Orleans, the ninth of June, eighteen hundred and two.

[SEAL.] JUAN VENTURA MORALES.

By the señor intendent. CARLOS XIMENES.

Note. That the aforegoing title is registered in the book of titles at folios 44 and over to 46. XIMENES.

New Orleans, date *ut sup*.

NEW ORLEANS, *June* 12, 1802.

In the principal office of accounts of ex. and royal treasury of the city of New Orleans, the aforegoing title was registered in the book appropriated for this purpose at fol. 106 to 111, as ordered.

MANUEL ARMIRES.

GILBERTO LEONARD.

Don Vincent Sebastian Pintado, surveyor general of West Florida.

The señor intendent general of this province having granted to Messrs. Panton, Leslie & Co a lot of ground of eighty feet in width,

* "*Auto asesórado*" indicates, that the Lay judge acted with the aid of the asesor, who is a lawyer.—*Translator*.

† "*Gracia*"—royal grace.

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and two hundred and eighty-eight in length, in the town of Mobile, according to the title of grant in form despatched in New Orleans, the capital of Louisiana, on the ninth of June, eighteen hundred and two, to which my predecessor omitted to annex the duplicate of the official document of survey and demonstrative plan; *nor** does it appear registered in the office of the surveyor-generalship under my charge. And it appearing by the said title of grant that the lot was surveyed and bounded by the deputy surveyor, who, for that place, was Mr. Joseph Collins, whose figurative plan and original document of survey was annexed to the *expediente del asiento* moved by Mr. William Simpson, agent of [the said house; Mr. John Forbes, at present director of the same, presented himself with the duplicate of the plan and official document given by the said Collins, that on sight thereof it should be registered, and an authentic and attested document should be despatched to be united to the title of grant of the said lot of ground, which is situate in the aforesaid town of Mobile, on the east side of Royal street, bounded on the north by another lot of the same house; on the south by the street called Government street, upon which are counted the two hundred and eighty-eight feet of length; on the east by the River of Mobile; and on the west by the said Royal street, upon which are counted the eighty feet of width; as more clearly appears by the aforegoing plan, copied from that which was formed by the said surveyor. And that it may be made manifest, I give these presents in the Place of Pensacola, the 26th day of the month of September, in the year 1806.

Notes.

Although the original does not mention whether the lineal feet which measure the side of the lot are of Burgos, London, or Paris, they must be understood to be the last, being conformable to the geodetical usage of this province.

According to the delineation of the lot in the plan, it forms a rectangular parallelogram, containing, therefore, seventy perches and thirty-six feet of area or superficial plane; but the directions of the needle noted thereon do not agree with the said figures, since the right line A B directing itself to the south 62° W. of the needle, in order that the line B C should be perpendicular to it, raised from the extreme B, it should run to the N. 28° W.: wherefore, it will be borne in mind, in any event, that the figure of the lot must be that of a rectangular parallelogram, and it will take that (direction) most adapted to the locality.

Notwithstanding that in the original it is said that the lot is bounded on the east part by the river of Mobile, and that in the plan the most easterly extreme thereof is figured at a certain distance to the west of the river, it must be understood that the two hundred and eighty feet

* The word in the record is *mi* (my); but it is evidently a mistake for *ni* (nor).—Tr.